IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE THE ACTING CHIEF JUSTICE BILAL NAZKI**

**and**
**THE HON'BLE MR JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO : 13471 of 2005**

Between:

M/s. Sai & Co., 29-22-25, Peesapativari Street, Suryaraopet, Vijayawada-52002, rep.by its Partner, Mr.S.Madanamohan Rao.

**..... PETITIONER**

AND

1. The Commercial Tax officer, Governprpet, Vijayawada.

**.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the respondent in collecting compounding fees of Rs.79,050/- and Rs.39,525/- towards tax pursuant to the inspection conducted on the 9-6-2004 without following the assessment procedure prescribed under the Act as illegal, arbitrary, highhanded and without jurisdiction and consequently direct the respondent to refund the amount of Rs.39,525/- collected towards tax and Rs.79,050/- towards compounding fee to the petitioner forthwith and pass such other order or orders as the HOn'ble court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.S.DWARAKANATH**

**Counsel for the Respondent.: SPL SC FOR COMMERCIAL TAXES**

**The Court made the following :**

**ORAL ORDER**: (Per Sri Bilal Nazki, the Hon'ble the Acting Chief Justice)

The learned counsel for the petitioner as well as the learned Special Government Pleader for Taxes submit that the matter in controversy is covered by a Full Bench judgment of this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY Vs. COMMERCIAL TAX OFFICER, (INT)-1, ENFORCEMENT, HYDERABAD***. Following the same, the writ petition is disposed of.

However, the learned counsel for the respondent submits that there is incriminating material, which amounts to suppression of turn over and therefore the authorities should be at liberty to proceed against the petitioner in accordance with law. There cannot be any difficulty in holding that if the department has any incriminating material and has power under the A.P.General Sales Tax Act to proceed in the matter, they can proceed so.

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08..07..2005

msv.

To

1. The Commercial Tax officer, Governorpet, Vijayawada.

2. 2 CD copies.